IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3353 of 2001

Between:

Kalam Maruthi Sivaprasad Rao, S/o. K.Subba Rao
H.No.6-45, Srinagar North, Bye Pass road,
Ongole, Prakasam District.

..... PETITIONER

AND

1 The Nagarjuna University, Rep. by its Registrar,
Nagarjunanagar, Guntur, Guntur District.
2 The Controller of Examinations,
Nagarjuna University, Nagarjunanagar,
Guntur, Guntur District.
3 The Special Officer,
Post Graduation Centre, Nagarjuna Universy ,
Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass orders, particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in rejecting the petitioner's Application for M.Sc. Maths Examination to be held in pursuance of 2nd respondent's Notification Dt: 16-1-2001 without any order and reasons as arbitrary, illegal, discriminatory and Violative of Articles 14 and 21 of the Constitution of India, and the Principles of Natural Justice, and consequently direct the respondents to allow the petitioner to appear to the process of post Graduate Examination, and grant such other relief .

Counsel for the Petitioner :MR. KASA JAGANMOHAN REDDY

Counsel for the Respondents : Mr. T.S. Harinath

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3353 OF 2001

ORDER :

The petitioner joined the M.Sc (Mathematics) in the Post-graduation Center, Nagarjuna University at Ongole during the year 1995 and prosecuted the course during 1995-97. He states that he passed in all the subjects except Analysis - Paper-IV of I-year M.Sc. While so, the second respondent – Controller of Examinations, Nagarjuna University issued a notification dated 16-01-2001 inviting applications from all the eligible candidates for the examinations of post-graduate courses for the academic year 2000-01 scheduled to be commenced from 17-03-2001. In pursuance thereof, the petitioner paid the examination fee and submitted his application on 22-01-2001. However, his application was returned with an endorsement as under :

> *"Not eligible as per the phone message from the Controller of Examiantions."*

Aggrieved by the said action of the respondents in not allowing him to appear for the examinations without assigning any reasons, this writ petition was filed on 25-02-2001 seeking a declaration that the action of the respondents in rejecting the

application of the petitioner to appear for the examinations on the basis of the notification dated 16-01-2001 as arbitrary and illegal and for a consequential direction to the respondents to allow him to appear for the examinations.

This Court while directing Rule Nisi, by order dated 12-03-2001 directed the respondents to receive the examination fee from the petitioner and issue hall-ticket to enable him to appear for the Analysis – Paper-IV to be held in pursuance of notification dated 16-01-2001, however, the result shall not be declared.

On behalf of the respondents, the Superintendent, Legal Cell, Nagarjuna University, filed a counter-affidavit stating that as per the Regulations of the University the candidates for P.G. courses shall complete their respective courses within five academic years from the date of joining the course and that no candidate who fails to pass the course during the said period shall be permitted to take any further examinations of the University. It is further stated that since the petitioner joined the M.Sc. (Mathematics) during the academic year 1995-96 and the stipulated five years period from the date of joining expired by March/April, 2000, he is not eligible to appear for the backlog subject of the M.Sc. I-year and therefore his application was rightly returned.

In view of the stand taken by the respondents in their counter-affidavit the petitioner got the prayer in the writ petition amended as under :

> *"It is therefore prayed that this Hon'ble High Court may be pleased to pass orders, particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in rejecting the petitioner's Application for M.Sc. Mathematics Examination to be held in pursuance of 2nd respondent's Notification, dated 16-1-2001 without any order while allowing the private candidates in the same Notification and further relaxing the said condition of "5 years time" prescribed in the said Resolution, dated 8-10-1983 totally for the private and regular candidates in 2003, as arbitrary, illegal, discrimination and violative of Articles 14 & 212 of the Constitution of India and the principles of natural justice, and consequently direct the respondents to allow the petitioner to appear to the process of Post-graduate Examination, and grant such other reliefs as this Hon'ble High Court may deem fit and proper."*

The petitioner states that during the pendency of the writ petition on 10-12-2002 the first respondent University issued a notification inviting applications from eligible candidates from post-graduate candidates with backlog papers belonging to 1993-94 to 1997-98 batches in case of regular study who are ineligible to appear for University Examinations under the existing Regulations by giving them one time opportunity to appear for examinations in March/April, 2003 under Latest Syllabi in not more than two theory papers provided they have passed in all other theory papers / practicals. On the basis of the said notification, the petitioner contends that though he has already appeared for the backlog paper in pursuance of the interim orders of this court since the results were withheld, he could not avail the opportunity under the Notification dated 10-12-2002 and therefore to meet the ends of justice there shall be a direction to the respondents to declare the result of the examination he has already appeared.

He also contends that under the Notification dated 16-01-2001 the Controller of Examinations having granted two more years to the Post-graduation private candidates to appear for the University Examinations, ought to have granted the similar benefit to the candidates of regular study and ought not to have returned the application of the petitioner.

On behalf of the respondents, an additional counter-affidavit has been filed stating that the reference to exemption in the Notification, dated 16-01-2001 was with regard to the prosecution of course and such exemption is necessary only for private students and there was no need for students who prosecuted regular studies to seek exemption. Moreover, granting of exemption for P.G. courses was abolished in the University with effect from the academic year 2002-03 when the mode of distance education was introduced. It is also specifically stated that private candidates stand on a different footing from regular students like the petitioner and therefore the contention of the petitioner is misconceived since he was very well aware of the regulations to the effect that after a period of five years, he cannot appear for the backlog papers.

I have heard the learned Counsel for both the parties and perused the material on record.

The Regulation applicable to the postgraduate courses which was ratified in the meeting of the Heads of Departments and subsequently approved by the Vice-chancellor of the University runs as under :

> *"1. The candidates for postgraduate courses shall complete their respective courses within five academic years from the date of joining the course under the regulations in force at the time of their joining the course. No candidate who fails to pas the course in this period shall be permitted to take any further examinations of this University.*
>
> *2. The candidates for Postgraduate courses shall be eligible for First Class or Second Class only if they pass the course (through examinations) within three academic years from the date of joining the course. The candidates who pass the course beyond this period shall be awarded only second or third class as the case may be.*
>
> *The above regulations shall apply to regular and private candidates equally."*

Thus, it is very clear that the candidates of post-graduate courses are bound to complete the backlogs, if any, within five years from the date of joining the course. It is not in dispute that since the petitioner joined the PG course in the academic year 1995-96, as per the above Rule, he is not eligible to appear for the backlog paper of the I-year in the examinations conducted in March/April, 2001 in pursuance of the Notification dated 16-01-2001. It is not as if the petitioner was not aware of the said rule position, since the said Rule was incorporated even in the students' hand-book supplied by the University to all the students at the time of admission into the course. Hence, the action of the respondents in returning the application of the petitioner cannot be held to be either arbitrary or illegal. It is also relevant to note that the validity of the said rule is not under challenge in this writ petition, but the petitioner only seeks a declaration that the University having extended the said period of five years by two more years to the private candidates is not justified in extending the same benefit to the regular students like the petitioner. I am unable to agree with the contention of the learned Counsel for the petitioner since the exemption was not with

regard to the above said Rule which requires that the candidates for post-graduate courses shall complete their respective courses within five academic years from the date of joining the course. In the light of the additional counter-affidavit filed on behalf of the first respondent, it is clear that the exemption was only with regard to prosecution of the course and obviously such exemption does not apply to the students who prosecute regular studies.

Then, the only other aspect requires to be considered is whether on the basis of subsequent Notification dated 10-12-2002 under which the postgraduate candidates with not more than two backlogs were allowed to appear for the University Examinations as one-time opportunity, there can be a direction to the respondents to declare the result of the petitioner. Whether the petitioner falls within the category of the candidates specified in the Notification dated 10-12-2002 and whether he can be extended the similar benefit at this point of time is an issue which requires to be considered by the University and no Mandamus can be issued compelling the University to extend such concession to the petitioner. This Court while dealing with an identical question, has taken the same view in W.P.No.9351 of 1998 & batch.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioner to make an appropriate application before the first respondent to consider his case for extending the benefit under the Notification dated 10-12-2002 within two weeks form today, in which event, the same shall be considered and appropriate orders be passed in accordance with law within a period of four weeks thereafter.

The Writ Petition is accordingly disposed of. No costs.

18th January, 2005.

gbs

To

1 The Registrar, Nagarjuna University, Nagarjunanagar, Guntur, Guntur District.
2 The Controller of Examinations,
Nagarjuna University, Nagarjunanagar,
Guntur, Guntur District.
3 The Special Officer,
Post Graduation Centre, Nagarjuna Universy ,
Ongole, Prakasam District.

4.2CCs to G.P. for Higher Education, High Court of AP Bldgs, Hyderabad (OUT).

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